

The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEFFREY A. BEDELL, GLENN J. BOYSKO, EDUARDO CARRANZA, WILLIAM HURWOOD, BENJAMIN Z. LI, SADANAND SAHASRABUDHE, MICHAEL J. SAYLOR, STEPHEN S. TRUNDLE, ABHIMANYU WARIKOO, and JUN YUAN

Appeal 2007-1542
Application 09/883,509
Technology Center 2100

Decided: June 28, 2007

Before JOHN C. MARTIN, JEAN R. HOMERE, and JOHN A. JEFFERY,
Administrative Patent Judges.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1 through 18. We have jurisdiction under 35 U.S.C. § 6(b) to decide this appeal.

Appellants invented a method and system for controlling users' access to data in an on-line analytical processing (OLAP) system. Particularly, the invention uses a security filter that permits an authenticated user or a group of authenticated users to view in a report format data retrieved from the OLAP system and subsequently filtered based an access level or access levels previously set in the user profile(s). (Specification 3).

Claim 1 is illustrative and representative of the claimed invention. It reads as follows:

1. A method for implementing a security filter for regulating access to data associated with a reporting system, comprising the steps of:

enabling a user to submit a user identification input and a user request to an on-line analytical processing system;

identifying the user based on user identification input;

retrieving data associated with the on-line analytical processing system in accordance with the user request;

filtering the retrieved data based on at least one security filter associated with the identified user; and

presenting the data as a report to the user through a user interface.

In rejecting the claims on appeal, the Examiner relied upon the following prior art:

Willens	US 5,889,958	Mar. 30, 1999
Reid	US 6,182,226 B1	Jan. 30, 2001
Pennock	US 6,484,168 B1	Nov. 19, 2002

The Examiner rejected the claims on appeal as follows:

- A. Claims 1 through 18 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellants regard as the invention.
- B. Claims 1, 7, and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Willens.
- C. Claims 2 through 4, 6, 8 through 10, 12, 14 through 16, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Willens and Pennock.
- D. Claims 5, 11, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Willens and Reid.

First, the Examiner contends that it is unclear whether claims 1 and 18 are directed to a reporting system or an OLAP system. (Answer 3 and 6.) In response, Appellants contend that the cited claims are not indefinite for reciting both a reporting system and an OLAP system. Particularly, Appellants contend that the fact that the body of a claim recites additional limitations which do not appear in the preamble does not render the claim indefinite.

Second, the Examiner contends that Willens' teaching of a network access server amounts to a reporting system that performs the complex functions of an OLAP. Therefore, Willens anticipates claims 1, 7 and 11. (Answer 4 and 8.) In response, Appellants contend that Willens does not anticipate the cited claims. Particularly, Appellants contend that Willens does not fairly teach or suggest an on-line analytical processing system from which data is retrieved and filtered in accordance with the user's profile to

present a report to the user, as recited in independent claims 1, 7, and 11. (Br. 9 and 11; Reply Br. 6).

Third, the Examiner contends that both Pennock and Reid complement Willens' teachings to yield the invention as recited in claims 2 through 6, 8 through 10, and 12 through 18. Therefore, the Examiner concludes that it would have been obvious to one of ordinary skill in the art to combine the teachings of the cited references to render the cited claims unpatentable. (Answer 5, 11, and 15.) Appellants, in contrast, contend that Willens taken in combination with either Pennock or Reid does not render dependent claims 2 through 6, 8 through 10, and 12 through 18 unpatentable. Particularly, Appellants contend that, among other things, neither Pennock nor Reid cures the deficiencies of Willens as it pertains to independent claims 1, 7, and 11, from which claims 2 through 6, 8 through 10, and 12 through 18 depend. Therefore, Appellants conclude that the suggested combinations are deficient as well. (Br. 11 and 14, Reply Br. 8 and 12.)

We reverse.

ISSUES

The *pivotal* issues in the appeal before us are as follows:

- (1) Has the Examiner failed to establish that the recitation of both a reporting system and an OLAP system in independent claims 1, 7, and 11 renders the claimed invention indefinite under 35 U.S.C. § 112 second paragraph?
- (2) Has the Examiner failed to establish that the disclosure of Willens anticipates the claimed invention under 35 U.S.C. § 102(b), when Willens teaches the use of a network access server and a filter for

determining in accordance with the user profile which websites the user is authorized to access?

(3) Has the Examiner failed to establish that one of ordinary skill in the art, at the time of the present invention, would have found that the combined disclosures Willens with Pennock or Reid render the claimed invention unpatentable under 35 U.S.C. § 103(a)?

FINDINGS OF FACT

The following findings of fact are supported by a preponderance of the evidence.

The invention

1. Appellants invented a method and system for controlling users' access to data in an OLAP system.¹ (Specification 3).
2. As depicted in Figures 1 and 7, after authenticating a user (710, 712), a user engine (102) receives a user request via a query input (116). (Figure 7, item 714). The user engine (102) then dispatches the request to an analytical engine (104), which in turn forwards the user request to a query engine (106) to search data storage devices (108) of the OLAP system. (Figure 7, item 716). (Specification 6, 7, and 20.)
3. Upon retrieving from the storage devices (108) the results (114) to the user's request, the query engine (106) filters the results (114) in accordance with the user access level as indicated in the user login information. (716) (*Id.* 10, 13, and 20.)

¹ OLAP systems analyze data from a number of different perspectives and support complex analyses against large input data sets. OLAP systems usually generate a report based upon an input filter indicating the condition of data upon which the report is to be presented. (Specification 1.)

4. The query engine subsequently forwards the filtered results (114) to the analytical engine (104) to generate a report to be presented to the user (718). (*Id.* 10 and 21.)

The Prior Art Relied upon

5. Willens teaches a method and system for controlling users' access to the Internet. Particularly, Willens teaches defining user access filters to determine whether or not a requesting user should be granted access to a website (Abstract, col. 3, ll. 12-18.)

6. As depicted in Figure 2, Willens teaches an access control subsystem (12) that includes the RADIUS module (38), the network access module (40) and the firewall filtering module (42). The RADIUS module checks the user's password and reviews the user's profile (46) to determine what sites the user is authorized to access. (Col. 4, ll. 12-20, ll. 46-52.)

7. The RADIUS server (16), after checking the user's authorization, issues a filter identification along with a verification acknowledgement to the network access server (18), which stores user filters along with site lists to determine the sites a user is authorized to access. (Col. 5, ll. 12-20 and ll. 58-64.)

8. Willens further teaches the network access server subsequently allows a user to access a desired website if the user's profile indicates that the user has been authorized to view the website. (Col. 5, l. 58 through col. 6, l. 9.)

PRINCIPLES OF LAW

1. INDEFINITENESS

The legal standard for definiteness is whether a claim reasonably apprises those of skill in the art of its scope." *In re Warmerdam*, 33 F.3d

1354, 1361, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994) (citing *Amgen Inc. v. Chugai Pharmaceutical Co. Ltd.*, 927 F.2d 1200, 1217, 18 USPQ2d 1016, 1030 (Fed. Cir. 1991)). The "inquiry therefore is merely to determine whether the claims do, in fact, set out and circumscribe a particular area with a reasonable degree of precision and particularity." *In re Moore*, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (CCPA 1971). Along the same line, our reviewing court has held that the test for definiteness under 35 U.S.C. § 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification."

Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986). Further, our reviewing court has held that the claim as a whole must be considered to determine whether the claim apprises one of ordinary skill in the art of its scope, and therefore serves the notice function required by 35 U.S.C. § 112, second paragraph by providing clear warning to others as to what constitutes the infringement of the patent. *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claims so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. § 112, second paragraph is deemed appropriate.

Morton Int'l, Inc. v. Cardinal Chemical Co., 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993).

2. ANTICIPATION

It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and

Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

In rejecting claims under 35 U.S.C. § 102, a single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation. *Perricone v. Medicis Pharmaceutical Corp.*, 432 F.3d 1368, 1375-76, 77 USPQ2d 1321, 1325-26 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565, 24 USPQ2d 1321, 1326 (Fed. Cir. 1992). Anticipation of a patent claim requires a finding that the claim at issue “reads on” a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed. Cir. 1999) (“In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.”) (internal citations omitted).

3. OBVIOUSNESS

OBVIOUSNESS (Prima Facie)

The Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), stated that three factual inquiries underpin any determination of obviousness:

Under § 103, (1) the scope and content of the prior art are to be determined; (2) differences between the prior art and the claims at issue are to be ascertained; and (3) the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As

indicia of obviousness or nonobviousness, these inquiries may have relevancy.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). Where the claimed subject matter involves more than the simple substitution one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement, a holding of obviousness must be based on “an apparent reason to combine the known elements in the fashion claimed.” *KSR Int’l v. Teleflex, Inc.*, 127 S. Ct. 1727, 1740-41, 82 USPQ2d 1385, 1396 (2007). That is, “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, 127 S. Ct. at 1741, 82 USPQ2d at 1396 (quoting *In re Kahn*, 441 F.3d 977, 987, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). Such reasoning can be based on interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a person having ordinary skill in the art. *KSR*, 127 S. Ct. at 1740-41, 82 USPQ2d at 1396. Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellant. *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. *See also Piasecki*, 745 F.2d at 1472, 223 USPQ at 788. Thus, the Examiner must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the Examiner’s conclusion.

ANALYSIS

A. 35 U.S.C. § 112, SECOND PARAGRAPH REJECTION

At the outset, we note that the relevant cases cited above require that claim definiteness be evaluated from the point of view of one of ordinary skill in the pertinent art. Plainly, in the cited authorities, our reviewing court mandates that a claim is deemed as being indefinite if the ordinarily skilled artisan cannot understand (the scope of) what is claimed after having read the Specification. In the present application, we find that Appellants' Specification clearly provides an OLAP as an example of a reporting system. (Specification 5 and *supra* note 2.) The ordinarily skilled artisan, having read Appellants' Specification, would have readily ascertained that independent claims 1, 7, and 11 are directed to a reporting system, and particularly to an OLAP. It is therefore our view that the ordinarily skilled artisan would not have been confused by the recitation of both a reporting system and the OLAP in independent in the cited claims. It follows that the Examiner erred in rejecting claims 1 through 18 as being indefinite under 35 U.S.C. § 112, second paragraph.

B. 35 U.S.C. § 102(b) REJECTION

As set forth above, representative claim 1 requires retrieving data associated with an OLAP and filtering the retrieved data to present the data as report to the user. In our view, Willens does not reasonably disclose an OLAP giving the term its broadest reasonable interpretation. In reaching this conclusion, we construe the term OLAP as per the definition provided in Appellants' Specification.² In short, an OLAP is a term of art describing a

² *See supra* note 2. Application claims are interpreted as broadly as is reasonable and consistent with the specification, "taking into account

specific type of information retrieval and analysis system that uses a multidimensional view of aggregate data for analysis.³ As detailed in the Findings of Fact section above, Willens teaches a network access server for storing user filtering information. (Finding of Fact 7.) Unlike an OLAP, Willens' network access server is not suitable for supporting complex analyses. Rather, it is limited to supporting tasks such as storing and retrieving data. Therefore, the Examiner's reliance on Willens' network access server to teach the claimed OLAP is misplaced. In short, Willens' network access server simply does not comport with the broadest reasonable interpretation of an OLAP as the term would be understood by skilled artisans. For this reason alone, we cannot sustain the Examiner's anticipation rejection.

Furthermore, we cannot sustain the Examiner's rejection for an additional reason: Willens does not disclose filtering the *retrieved* data based on at least one security filter associated with the identified user as claimed (emphasis added). The word "retrieved" is emphasized since the form of the word itself (i.e., the past tense) requires the claimed filtering step to occur *after* retrieving the data. This particular sequence of events is

whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification." *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). A definition can be explicit or implicit. *See Massachusetts Institute of Technology v. Abacus Software*, 462 F.3d 1344, 1351, 80 USPQ2d 1225, 1229 (Fed. Cir. 2006) ("the specification does not define the term 'scanner' either explicitly or implicitly").

³ *See* OLAP Council White Paper, *available at* http://www.symcorp.com/downloads/OLAP_CouncilWhitePaper.pdf, 1997 (last visited Jun. 20, 2007) (defining and detailing key features of OLAPs).

simply not expressly or inherently disclosed in Willens' network access system.

Willens teaches filtering a user access request followed by a grant or denial of access to the request to access a particular website. Particularly, the filtering of user access to the website entails retrieving the user profile stored on the network access server to determine whether or not the user should be authorized to access the website. (Findings of Fact 7 and 8.) We note, however, that although Willens teaches retrieving a user profile data as part of its filtering process, it does not suggest filtering the retrieved access data to determine which portion of said data to report to the user. Unlike as called for in claim 1, the user of Willens's system is ultimately either allowed or denied to view a website without any knowledge of what the retrieved information entails.

In short, irrespective of our finding that Willens fails to disclose an OLAP, we also find nothing in Willens that reasonably teaches or suggests the particular sequence of method steps recited in claim 1 – namely that the claimed filtering step occurs *after* retrieving the data. Although Appellants have not argued that the claim language requires retrieving the data prior to filtering it, that is the clear meaning of the language recited in claim 1 as well as in independent claim 7 ("for filtering the retrieved data") and independent claim 13 ("to filter the retrieved data"). For this additional reason, we cannot sustain the Examiner's anticipation rejection.

In light of these findings, it is our view that Willens does not teach the cited limitations of representative claim 1. It follows that the Examiner erred in rejecting claims 1, 7, and 11 as being anticipated by Willens.

C. 35 U.S.C. § 103(a) REJECTION

Now, we turn to the rejection of claims 2 through 6, 8 through 10, and 12 through 18 as being unpatentable over Willens in combination with Pennock or Reid. We note that these dependent claims also require filtering data retrieved from an OLAP based upon a security filter associated with an identified user to present data as a report to the user. As detailed in the discussion of independent claims 1, 7, and 11 above, we have found that Willens does not teach such limitations. We further find that neither Pennock nor Reid cures such deficiencies. In light of these findings, it is our view that one of ordinary skill in the art would not have found it obvious to combine the teachings of Willens with Pennock or Reid to yield the invention as claimed. Therefore, it follows that the Examiner erred in rejecting claims 2 through 6, 8 through 10, and 12 through 18 as being unpatentable over the combination of Willens and Pennock or Reid.

CONCLUSIONS OF LAW

On the record before us, the Examiner has failed to establish that claims 1 through 18 are indefinite under 35 U.S.C. § 112, second paragraph. Further, the Examiner has failed to establish that Willens anticipates claims 1, 7, and 11 under 35 U.S.C. § 102(b). Additionally, the Examiner has failed to establish that the combination of Willens and Pennock or Reid renders claims 2 through 6, 8 through 10, and 12 through 18 unpatentable under 35 U.S.C. § 103(a).

OTHER ISSUES

The Board brings to Appellants' and the Examiner's attention the following prior art references:

REDDY

US 6,574,619 B1

Jun. 3, 2003

Appeal 2007-1542
Application 09/883,509

ANWAR US 6,750,864 B1
(Filed Mar. 24, 2000)
Jun. 15, 2004
(Filed Nov. 15, 1999)

We leave it to the Examiner to determine if ANWAR and/or REDDY and similar prior art teach the limitations recited in claims 1 through 18.

DECISION

We have reversed the Examiner's decision rejecting claims 1 through 18.

REVERSED

rwk

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109